

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

SCOTT LEHMANN,

Defendant.

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**REPORT AND
RECOMMENDATION**

CV 06-6219 (DRH) (ARL)

LINDSAY R. ARLENE, United States Magistrate Judge:

By Order of Referral dated February 1, 2007, this matter was referred to the undersigned for the purpose of determining the proper amount of damages, attorneys' fees and costs to be awarded following the entry of a default judgment against the defendant. For the reasons set forth herein, the undersigned recommends that the plaintiff, United States of America, be awarded damages in the amount of \$ 5,443.21, interest through February 28, 2007 in the amount of \$4,679.83 and additional interest at the rate of 7.00 % per annum from March 1, 2007 through the date of judgment.

BACKGROUND

On November 21, 2006, the plaintiff United States of America commenced this action by serving a copy of the summons and complaint on defendant Scott Lehmann ("the defendant" or "Lehmann"). Lehmann failed to answer, appear, or otherwise move and the plaintiff moved for a default judgment. That application was granted by order dated February 1, 2007. Plaintiff now seeks an award of damages, inclusive of interest through February 28, 2007, in the total amount of \$10,122.59 as well as additional interest at the rate of 7.00% from March 1, 2007 through date of judgment and costs in the amount of \$37.50.

DISCUSSION

A) DAMAGES:

Because the plaintiff seeks a sum certain in this action, a detailed analysis of damages is unnecessary. The plaintiff seeks recovery on the promissory note as follows:

Principal \$5,443.21

Total Interest Accrued
Through February 28, 2007: \$4,679.39

Total Owed as of
February 28, 2007 : \$10,122.59

Accordingly, the undersigned recommends that damages be awarded in the principal amount of \$5,443.21 plus interest through February 28, 2007 of \$4,679.39, and additional interest from March 1, 2007 to the entry of judgment at a daily rate of \$1.04 per day pursuant to the Certificate of Indebtedness certified by the United States Department of Education, attached to the complaint as Exhibit A.

B) COSTS:

In addition to damages, the plaintiff seeks an award of \$37.50 as unspecified disbursements that “have been made in this action or will necessarily be made or incurred in this action.” Declaration of Liberatore Iannarone at ¶ 8. While the assessment of collection fees against defaulted federal loans is authorized by regulations enacted pursuant to the Higher Education Act of 1965 (HEA), 20 U.S.C. §1071, *et seq.*, the plaintiff has not identified the cost for which reimbursement is sought nor does it even confirm that the cost has actually been incurred. Accordingly, the undersigned declines to recommend that the costs sought by the plaintiff be awarded.

OBJECTIONS

The plaintiff is directed to serve a copy of this Report and Recommendation on the defendant by certified mail, return receipt requested. Any objections to this Report and Recommendation must be filed with the Clerk of the Court with a courtesy copy to the undersigned within 10 days of service. Failure to file objections within this period waives the right to appeal the District Court's Order. See 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; Beverly v. Walker, 118 F.3d 900, 902 (2d Cir. 1997); Savoie v. Merchants Bank, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York
March 12, 2007

/s/ Arlene R. Lindsay
ARLENE R. LINDSAY
United States Magistrate Judge